

REMARKS / ARGUMENTS

Reconsideration of the application in view of this Amendment and the following remarks is respectfully requested.

This Amendment amends claims 18, 20, 39, and 47. Claims 1-47 are pending in the application. The specification has been amended to correct minor errors.

Claim Rejections – 35 U.S.C. §102

Claims 1, 7-10, 18, 24, 25, 28, 36, and 37 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0103644 to John Klaya. Applicant respectfully traverses these rejections as to claims 1 and 7-10.

Claim 1:

Claim 1 requires “sensing presence of a consumer proximate to a display of consumer goods” Support for the above-quoted recitation is found in paragraph 28 of the Specification. By contrast, Klaya does not disclose sensing the presence of a consumer proximate to a display of consumer goods, as required by claim 1. The advantage attained by Applicant’s sensing the presence of a consumer proximate to a display of consumer goods is that Applicant’s method is responsive to a consumer shopper approaching a display of goods, whereby such event triggers the playing of an advertisement for such goods that is sensed by the shopper. The shopper hears and/or views the advertisement when it is most convenient and expeditious for him to retrieve such goods from the display for purchase. This advantageous arrangement is neither taught nor suggested by Klaya. Therefore, Applicant’s Claim 1 distinguishes patentably from Klaya.

Claims 7-10:

Claims 7-10 depend directly or indirectly from, and contain all the limitations of, claim 1. Therefore, claims 7-10 are also patentably distinct from Klaya for the reasons stated above with respect to claim 1.

Claim 18:

Claim 18 as amended requires “wherein the remote advertising player senses presence of a person proximate to a display of consumer goods” Support for the above-quoted recitation

is found in paragraph 28 of the Specification. By contrast, Klaya does not disclose sensing the presence of a consumer proximate to a display of consumer goods, as required by claim 18. The advantage attained by Applicant's sensing the presence of a consumer proximate to a display of consumer goods is that Applicant's advertising system is responsive to a consumer shopper approaching a display of goods, whereby such event triggers the playing of an advertisement for such goods that is sensed by the shopper. The shopper hears and/or views the advertisement when it is most convenient and expeditious for him to retrieve such goods from the display for purchase. This advantageous arrangement is neither taught nor suggested by Klaya. Therefore, Applicant's Claim 18 distinguishes patentably from Klaya.

Claims 24, 25, 28, 36, and 37:

Claims 24, 25, 28, 36, and 37 depend directly or indirectly from, and contain all the limitations of, claim 18 as amended. Therefore, claims 24, 25, 28, 36, and 37 are also patentably distinct from Klaya for the reasons stated above with respect to claim 18 as amended.

Claim Rejections – 35 U.S.C. §103

Claims 2-6, 11-17, 19-23, 26, 27, 29-35, and 38-47 were rejected under 35 U.S.C. §103(a) as being unpatentable over Klaya. The Examiner also bases his rejections of these claims on what is allegedly old and well known in the art.

Claims 2-6 and 11-17:

Claims 2-6 and 11-17 depend directly or indirectly from, and contain all the limitations of, claim 1. Therefore, through their dependency on claim 1, claims 2-6 and 11-17 require "sensing presence of a consumer proximate to a display of consumer goods," as required by claim 1. By contrast, Klaya does not disclose sensing the presence of a consumer proximate to a display of consumer goods. Therefore, Applicant's Claims 2-6 and 11-17 distinguish patentably from Klaya.

Claims 19-23, 26, 27, 29-35, and 38:

Claims 19-23, 26, 27, 29-35, and 38 depend directly or indirectly from, and contain all the limitations of, claim 18. Therefore, through their dependency on claim 18, claims 19-23, 26,

27, 29-35, and 38 require “wherein the remote advertising player senses presence of a consumer proximate to a display of consumer goods,” as required by claim 18. By contrast, Klaya does not disclose sensing the presence of a consumer proximate to a display of consumer goods. Therefore, Applicant’s Claims 19-23, 26, 27, 29-35, and 38 also distinguish patentably from Klaya.

Claims 39:

Claim 39 as amended requires “wherein the processor is programmed to sense proximity of a consumer proximate to a display of consumer goods using the sensing device,” Support for the above-quoted recitation is found in paragraph 28 of the Specification. By contrast, Klaya does not disclose sensing the presence of a consumer proximate to a display of consumer goods, as required by claim 39 as amended. The advantage attained by Applicant’s sensing the presence of a consumer proximate to a display of consumer goods is that Applicant’s advertising system is responsive to a consumer shopper approaching a display of goods, whereby such event triggers the playing of an advertisement for such goods that is sensed by the shopper. The shopper hears and/or views the advertisement when it is most convenient and expeditious for him to retrieve such goods from the display for purchase. This advantageous arrangement is neither taught nor suggested by Klaya. Therefore, Applicant’s Claim 39 as amended distinguishes patentably from Klaya.

Claims 40-46:

Claims 40-46 depend directly or indirectly from, and contain all the limitations of, claim 39 as amended. Therefore, claims 40-46 are also patentably distinct from Klaya for the reasons stated above with respect to claim 39 as amended.

Claim 47:

Claim 47 as amended requires “wherein the means for reproducing advertisements senses presence of a person proximate to a display of consumer goods,” Support for the above-quoted recitation is found in paragraph 28 of the Specification. By contrast, Klaya does not disclose sensing the presence of a consumer proximate to a display of consumer goods, as required by claim 47 as amended. The advantage attained by Applicant’s sensing the presence of

a consumer proximate to a display of consumer goods is that Applicant's advertising system is responsive to a consumer shopper approaching a display of goods, whereby such event triggers the playing of an advertisement for such goods that is sensed by the shopper. The shopper hears and/or views the advertisement when it is most convenient and expeditious for him to retrieve such goods from the display for purchase. This advantageous arrangement is neither taught nor suggested by Klaya. Therefore, Applicant's Claim 47 as amended distinguishes patentably from Klaya.

CONCLUSION

Applicant has made an earnest attempt to place this application in condition for allowance. For the reasons stated above, and for other reasons clearly apparent, Applicant respectfully requests full allowance of the application as herein amended. Reconsideration of this application in view of this Amendment and Response is therefore requested.

If there are matters which can be discussed by telephone to resolve any remaining issues regarding this application, Applicant requests that the Examiner call Applicant's attorney at the telephone number listed below.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 11-0307.

Respectfully submitted,

/Kenneth Beyers/
Registration No. 36,409

Keeling Patents & Trademarks
3310 Katy Freeway, Suite 100
Houston, Texas 77007
(713) 579-3001
(713) 579-3002 Fax